

State of Rhode Island - Division of Taxation

Hotels and Other Accommodations

Sales and Use Tax & Hotel Tax

Regulation SU 16-97

- Rule 1. Purpose**
- Rule 2. Authority**
- Rule 3. Application**
- Rule 4. Severability**
- Rule 5. Definitions**
- Rule 6. Sales Tax on Hotels and Other Accommodations (Other Than Residential Dwellings)**
- Rule 7. Sales Tax on Residential Dwellings**
- Rule 8. Hosting Platforms, Realtors, Room Resellers and Travel Packages**
- Rule 9. Rental of Public Rooms in a Hotel**
- Rule 10. Exemptions**
- Rule 11. Hotel Tax on Hotels and Other Accommodations**
- Rule 12. Effective Date**

Rule 1. Purpose

This regulation implements Chapters 44-18, 44-19, and 42-63.1 of the Rhode Island General Laws. These Chapters provide for Sales and Use Taxes Liability and Computation and Sales and Use Taxes Enforcement and Collection in regard to room rentals – by hotels, rooming homes, tourist camps, room resellers and hosting platforms.

Rule 2. Authority

This regulation is promulgated pursuant to RIGL Sections 44-1-4 and 44-19-33. These rules have been prepared in accordance with the requirements of RIGL 42-35-3.

Rule 3. Application

These rules and regulations shall be liberally construed to permit the Department of Revenue to effectuate the purposes of RIGL Chapters 44-18, 44-19, and 42-63.1 and other applicable state laws and regulations.

Rule 4. Severability

If any provision of these rules and regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

Rule 5. Definitions

"Hotel" means any facility offering a minimum of one (1) room for which the public may, for a consideration, obtain transient lodging accommodations. The term "hotel" shall include hotels, motels, tourist homes, tourist camps, lodging houses, and inns. The term "hotel" shall also include houses, condominiums or other residential dwelling units regardless of the number of rooms, which are used and/or advertised for rent or occupancy. The term "hotel" shall not include schools, hospitals, sanitariums, nursing homes, and chronic care centers.

"Hosting platform" means any electronic or operating system in which a person or entity provides a means through which an owner may offer a residential unit for transient use. This service is usually provided through an online or web-based system which generally allows an owner to advertise the residential unit through a hosted website and provides a means for a person or entity to arrange transient use in exchange for payment, whether the person or entity pays rent directly to the owner or to the hosting platform. All hosting platforms are required to collect and remit the tax owed.

"Living quarters" means sleeping rooms, sleeping or housekeeping accommodations, or any other room or accommodation in any part of the hotel, rooming house or tourist camp which is available for or rented out for hire in the lodging of guests.

"Occupancy" means a person, firm or corporation's use of space for transient lodging accommodations not to exceed thirty (30) days. Excluded from "occupancy" is the use of space for which the occupant has a documented agreement for the space, where such agreement covers a rental period of twelve (12) months or more. Furthermore, any house, condominium or other residential dwelling rented, for which the occupant has a documented agreement for the space covering a rental period of more than thirty (30) consecutive days or for one calendar month, is excluded from the definition of occupancy.

“Owner” means any person who owns real property and is the owner of record. Owner shall also include a lessee where the lessee is offering a residential unit for transient use.

“Residential unit, also referred to as residential dwelling” means a room or rooms, including a condominium or a room or a dwelling unit that forms part of a single, joint or shared tenant arrangement in any building, or portion thereof, which is designed, built, and leased to be occupied for non-commercial use.

“Room reseller” means any person except a tour operator having any right, permission, license, or other authority from or through a hotel to reserve or arrange the transfer of occupancy, such that the occupant pays all or a portion of the rental and other fees to the room reseller.

“Rooming house” means every house, vehicle, motor court or other structure kept, used, maintained, advertised or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings.

“Tour operator” means a person that derives a majority of their revenue by providing tour operator packages.

“Tourist camp” means a place where tents, tent houses, camp cottages, cabins or other structures are located and offered to the public or any segment thereof for transient lodging.

“Travel package” means a room or rooms bundled with one or more separate components of travel such as air transportation, car rental or similar items where the travel package is charged to the customer for a single retail price. When the room occupancy is bundled for a single consideration with other property, services or other items, the entire single consideration shall be treated as the rental/fees for room occupancy.

Rule 6. Sales Tax on Hotels and Other Accommodations (Other Than Residential Dwellings)

(a) Sales Tax Liability

(1) Sales and use tax is imposed on the sale, storage, use, or other consumption in this state at the rate as provided in RIGL 44-18-18 and 44-18-20 on the rental charges for living quarters in hotels, motels, inns, tourist/lodging houses and tourist camps. Tax is imposed on the rental charges for the first thirty (30) consecutive days of each rental period. The portion of the rental period that exceeds thirty (30) consecutive days is not subject to sales (or hotel) tax.

(2) Any break in occupancy results in the creation of a new and separate rental. A break occurs when a guest terminates his occupancy by checking out or by transferring from one hotel to another hotel, even if such hotels are operated by the same owner. The tax will apply to charges for such new and separate rentals in the same manner and to the same extent as though such guest had just checked in for the first time, and the thirty (30) day taxable period starts all over.

However, a mere change of rooms in the same hotel, motel, rooming house or tourist camp does not constitute a break in occupancy.

(3) In the event that an occupant has a documented agreement covering a rental period of twelve (12) months or more, the entire charge including the first thirty (30) consecutive days of such occupancy are not subject to sales or hotel tax. For leases covering a period of less than twelve (12) months, the first thirty (30) consecutive days are subject to both sales and hotel tax.

(4) Where a hotel rents a room designed as living quarters (i.e., a bedroom, suite, etc.) and the room or suite is rented to a business for display or conference purposes, rental charges made for such accommodations will be subject to tax.

Rule 7. Sales Tax on Residential Dwellings

(a) Sales Tax Liability

(1) Sales and use tax is imposed on the sale, storage, use, or other consumption in this state at the rate as provided in RIGL 44-18-18 and 44-18-20 on the rental charges for rooms, houses, condominiums, and other residential dwellings. Tax is imposed on the total rental charges for the first thirty (30) consecutive days of each rental period, provided that such rental period is not greater than thirty (30) consecutive days or one calendar month.

(2) For any room rented, or for a house, condominium, or other residential dwelling rented in its entirety to an occupant who has a documented agreement covering a rental period of more than thirty (30) consecutive days, or for one calendar month, there is no sales (or state/local hotel) tax due on the rental charge. In this case, the rental is excluded from the definition of occupancy.

Example 1:

A college student rents a home for the nine (9) month period September through May. Since the rental period is greater than thirty (30) consecutive days, or for one calendar month (or more), there is no sales or hotel tax due on the rental charges.

Example 2:

A person rents their beach house in its entirety for a three (3) month period June through August and the occupant has a documented agreement. Since the rental period is greater than thirty (30) consecutive days, or for one calendar month (or more), there is no sales or hotel tax due on the rental charges.

Example 3:

A person rents their beach house in its entirety for separate two week periods in July and August. Since no rental period exceeds thirty (30) consecutive days or one calendar month, sales tax as provided in RIGL 44-18-18 and the local hotel tax as provided in

RIGL 44-18-36.1(b) must be added to the amount charged for each rental period. Since the beach house is rented in its entirety, the state hotel tax per RIGL 44-18-36.1(a) does not apply.

Example 4:

A person rents a room in their beach house for separate two week periods in July and August. Since no rental period exceeds thirty (30) consecutive days or one calendar month, sales tax as provided in RIGL 44-18-18 and state and local hotel taxes as provided in RIGL 44-18-36.1(a) and (b) must be added to the amount charged for each rental period.

Rule 8. Hosting Platforms, Realtors, Room Resellers and Travel Packages

(a) Hosting Platform

A hosting platform as defined in Rule 5 is required to register, collect and remit both sales and hotel tax on the rental charge to occupants for rooms and other residential dwellings.

Example 1:

A person rents a room in their residential home through an online hosting platform. The rentals vary from a weekend to an entire week. Since the definition of a hotel includes residential dwellings and no rental period exceeds thirty (30) consecutive days or one calendar month, both sales tax as provided in RIGL 44-18-18 and state and local hotel taxes as provided in RIGL 44-18-36.1(a) and (b) must be added to the amount charged for each rental period. The hosting platform is required to collect and remit the tax.

Example 2:

A person rents a room in their residential house through an online hosting platform. The rental period is for one calendar month and the occupant has a documented arrangement. This rental is not subject to sales or hotel tax as the rental period is for one calendar month.

(b) Realtors

(1) Every person advertising, managing or operating a hotel which includes residential dwellings, motels, rooming houses or tourist camps, or who collects or receives rents on behalf of the owner or operator, is liable for the tax on such rentals. The tax shall be added to the total rental charge without an allowance for any commissions or fees received.

(2) When an owner of a residential dwelling advertises it as a short term rental (thirty (30) days or less) through a real estate agency and is charged only an upfront fee for advertising by the real estate agency, and the prospective tenant after finding the advertisement deals directly with the

owner and not the real estate agency, the owner is responsible for registering and collecting both sales and applicable hotel tax.

Example 1:

A realtor collects a one week rental charge of \$2000 for a home rented in its entirety. A commission of \$350 is kept by the realtor. In addition, a \$500 security deposit is paid by the occupant. At the end of the rental period there are damages totaling \$300 and a cleaning fee of \$100 deducted from the security deposit. Sales and local hotel tax is due on the total rental charges paid by the occupant calculated as follows:

\$2000 total rental charge (no allowance for commission) plus \$300 damages plus \$100 cleaning fee equals \$2400 subject to both sales and local hotel tax. It is noted that only the refunded portion of the security deposit is not subject to tax.

All taxes collected constitute a trust fund.

(c) Room Reseller

A room reseller as defined in Rule 5 is required to register, collect and remit both sales and hotel tax on the total charge to occupants for room rentals. Sales and hotel taxes are calculated upon the amount of rental and other fees paid by the occupant to the room reseller, less the amount of tax paid by the room reseller to the hotel. The hotel shall calculate both sales and hotel taxes upon the amount of rental and other fees paid to the hotel by the room reseller and/or the occupant.

Example 1:

Hotel charges a room reseller \$100 for a room plus sales tax of \$7 and hotel tax of \$6. The room reseller arranges for the transfer of occupancy and charges the occupant \$150 for the room, sales tax of \$10.50 and hotel tax of \$9. The room reseller will calculate sales tax due as follows: \$10.50 collected less \$7 paid to the hotel equals \$3.50 sales tax due. Hotel tax is calculated in the same manner: \$9 collected less \$6 remitted equals \$3 due.

Example 2:

Assume the same facts as above however the occupant has additional fees of \$50 charged by the hotel. The hotel is responsible for charging and remitting the applicable sales and hotel tax to the occupant for the additional fees.

(d) Travel Packages

A travel package as defined in Rule 5 consisting of a single consideration for “bundled” travel charges shall be treated as the rental/fee for room occupancy and is subject to tax, even if the separate sale of certain bundled travel charges would otherwise not be subject to tax. Separately stated room occupancy charges and other travel charges are subject to tax based on the taxability of each individual item.

Rule 9. Rental of Public Rooms in a Hotel

(a) Both sales and hotel tax apply only to living quarters as defined in Rule 5 within a hotel. The hotel is not required to charge tax on the rental of public rooms (i.e., assembly rooms, ballrooms, card rooms, etc.) for group meetings, display purposes, dances, or for similar events as long as the charges for such public rooms are separately stated, except in the following cases:

(1) If a customer rents a room in conjunction with the serving of a meal (wedding, banquets, retirement dinner or similar events) and the meal is provided by the operator/owner of the room, the charge for the room, whether or not separately stated, is treated as an additional charge for the furnishing, preparing or serving of the meal and is included in the sales price of the meal.

(2) If a customer rents a room for purposes other than the serving of meals and there is an incidental serving of light refreshments by the operator/owner of the room for an additional charge, the sales tax applies only to the sales price of the refreshments, if the charge for the refreshments is separately stated on both the records of the vendor and the bill to the customer. If the charges are not separately stated, the entire amount charged is subject to the sales tax.

(3) If more than one meeting room has been rented for use at the same function, with one room being used for the serving of meals and another room being used for the meeting; the facility's separately stated and reasonable charge (based on prevailing rates in the area) for the room not used for the serving of meals is not treated as charges for the meals, and is not subject to sales tax. If the charge for the room being used for the meeting is neither separately stated nor reasonable, the facility's total charges are treated as charges for the meals, and are subject to sales and use taxes.

(b) Living Quarters Furnished for Employees: Tax will not apply in a case where living quarters are furnished by the employer to the employee, at premises controlled by the employer, and solely for the convenience of the employer; regardless of whether there is a pay differential, or pay deduction, based upon the furnishing of such quarters.

RULE 10. Exemptions

(a) The following rentals are exempt from tax:

(1) Rentals charged at camps or retreat houses operated by religious, charitable and educational organizations and institutions.

(2) Rentals charged by privately owned and operated summer camps for children.

(3) Rentals charged for living quarters in an institution licensed by the state for the hospitalization, custodial or nursing care of human beings.

(4) Rentals charged by any non-profit educational institution for living quarters to accommodate any student or teacher, if such living quarters are necessitated by attendance at such institution.

(b) However, where a non-profit organization rents living quarters in the same manner as a hotel or rooming house (e.g. YMCA) it is required to register and add and collect the rental tax.

(c) Other Exemptions

(1) Occupancy of rooms by the United States Government or its agencies, or by an employee or representative of the United States Government or its agencies, when such occupancy is solely for official purposes and the rent is billed to and paid by the United States Government or its agencies.

(2) Members of the Armed Forces are not exempt from tax upon occupancy of rooms unless acting as authorized representatives of the United States Government or one of its agencies and are otherwise entitled to exemption under the provisions of the preceding paragraph.

(3) Occupancy by employees or representatives of the State of Rhode Island, its instrumentalities or political subdivisions, is exempt from the tax when such occupancy is for official purposes and the rent is billed to and paid by the State, its agencies or political subdivisions.

(d) Whenever exemption from the tax on room rental charges is claimed by any employee, representative or other official of the United States Government, or of the State of Rhode Island or of any of its cities or towns or other political subdivisions, because such person is on official business, such exemption will apply only if the following two conditions are met:

(1) The bill is made out to the governmental agency involved, and

(2) Payment is made by such agency.

(e) If the employee pays the bill (even though the bill is made out to the governmental agency by whom he or she is employed or which he or she represents), the tax applies. In such case it is immaterial that such employee is reimbursed or that the economic burden of the tax is passed on to the governmental agency.

(f) Records of Exempt Rentals - The hotel/operator must maintain records to support and identify all exempt rentals.

Rule 11. Hotel Tax on Hotels and Other Accommodations

(a) Hotel Tax Liability

(1) A state hotel tax is imposed at the rate provided in RIGL 44-18-36.1(a) upon the total consideration charged for occupancy of any space furnished by any hotel, travel packages, or room seller as defined in RIGL 44-18-7.3(b) in this state. A house, condominium, or other residential dwelling shall be exempt from the five percent (5%) state hotel tax under this subsection if the house, condominium, or other residential dwelling is rented in its entirety. The state hotel tax is in addition to any sales tax imposed. The state hotel tax is administered and collected by the division of taxation and unless provided to the contrary in this chapter, all the administration, collection, and other provisions of chapters 18 and 19 of this title apply.

(2) A local hotel tax is imposed at a rate as provided in RIGL 44-18-36.1(b) upon the total consideration charged for occupancy of any space furnished by any hotel in this state, in addition to all other taxes and fees now imposed by law. The local hotel tax shall be administered and collected in accordance with subsection (3)(i) of this rule.

(3) Short term rentals (consisting of a rental period of thirty (30) days or less) of a residential dwelling are subject to hotel tax as follows:

- (i) House/condominium or other such residential dwelling rented in its entirety is subject to the local hotel tax per section (2) of this rule. The state hotel tax in section (1) of this rule does not apply;
- (ii) Room rental in a residential dwelling is subject to both the state and local hotel tax in sections (1) and (2) above.

(4) A residential dwelling rented for more than thirty (30) consecutive days or for one calendar month is not subject to either hotel tax (or sales tax).

(5) Notwithstanding the provisions of subsection (a) of this section, the city of Newport shall have the authority to collect from hotels located in the city of Newport the hotel tax imposed.

Rule 12. Effective Date

This regulation shall take effect on July 1, 2016 and amend and supersede Regulation SU 02-97 promulgated March 1, 2002

Neena S. Savage
Acting Tax Administrator.